

ENTERED

July 13, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ABRAHAM DELGADO,

Plaintiff,

VS.

APOLLO ENVIRONMENTAL STRATEGIES
INC,

Defendant.

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CIVIL ACTION NO. 4:18-CV-00526

OPINION AND ORDER

ADOPTING MAGISTRATE JUDGE’S MEMORANDUM AND RECOMMENDATION

Pending before the Court in the above-referenced proceeding is Movant Abraham Delgado’s (“Delgado”) Motion for Conditional Certification Under the Fair Labor Standards Act, Doc. 13; and Judge Stacy’s Memorandum and Recommendation that the Court grant the Movant’s Motion, Doc. 16. Defendant Apollo Environmental Strategies, Inc. (“Apollo”) did not respond to the Motion nor did it object to the Memorandum and Recommendation. Thus, under Local Rule 7.4, the Motion and Memorandum and Recommendation are deemed unopposed.

Upon review, the Court agrees with the Magistrate Judge’s conclusion that that the Court conditionally certify a class welders and that Notice be sent to class members by regular U.S. mail. Doc. 16 at 5. Accordingly, the Court hereby

ORDERS that the Memorandum and Recommendation, Doc. 16, is **ADOPTED**. Movant Delgado’s Motion for Conditional Certification Under the Fair Labor Standards Act, Doc. 13, is **GRANTED**. It is further **ORDERED** that

the Court conditionally certify a class of “All current and former Welders classified as independent contractors by Apollo Environmental Strategies, Inc. at any time during the three

years before February 22, 2018 up to the present and who were not paid overtime compensation,” and that Notice be sent to class members by regular U.S. mail, which includes the language/revisions set forth below:

the notice should include the style and cause number of the case; state the reason why the notice is being sent along with a class definition; describe Plaintiffs allegations in the lawsuit and the relief sought; should state, “The Court has not yet decided whether Apollo has done anything wrong or whether this case will proceed to trial”; state how a potential opt-in may join in the case; state that “the opt-in plaintiffs will be bound by the court’s judgment, whether favorable *or* unfavorable,” and set forth the consequences of opting in; should inform potential opt-in plaintiffs that they may contact Plaintiffs counsel, or any attorney of their choosing to discuss the case; state the costs of opting in; should state that Apollo may not retaliate against claimants for joining the suit; and should state that “the Court has not ruled on decided any of these issues, including the merits of the claims or defenses.”

SIGNED at Houston, Texas, this 12th day of July, 2018.



MELINDA HARMON
UNITED STATES DISTRICT JUDGE